

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35360 of 2021

Arising Out of PS. Case No.-766 Year-2020 Thana- KANTI District- Muzaffarpur

Chandan Kumar S/O Sri Umashankar Singh R/O Village- Chandauli, P.S.-
Belsand, District- Sitamarhi, At Present, Resides At Damodarpur, Gangaram
Pokhor, P.S.- Kanti, District- Muzaffarpur

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur- Advocate

Mr. Mrityunjay Kumar- Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad- A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 31-01-2022 Heard learned counsel for the petitioner and

learned APP for the State through video conferencing.

The petitioner seeks bail in connection with Kanti
P. S. Case No.766 of 2020, instituted for the offences under
Sections 376(D), 376(2)(1), 120(B) of the Indian Penal
Code and Section 6 of the POCSO Act.

The learned counsel for the petitioner submits that
the petitioner is in custody since 30.12.2020, charge-sheet
has been submitted in the case and was a person with clean
antecedent prior to the occurrence, but after institution of
the present case, he came to be implicated in a case under
the Excise Act as mentioned in Para-3 of the bail



application.

The learned counsel for the petitioner submits that the informant alleges that her minor daughter after being recovered informed that she heard knock on the door and thought that father had come, hence she opened the door and saw the petitioner, who forcibly took her to his house and committed rape along with Dipak Jha after consuming liquor where his wife was also present.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. Further the petitioner is a next-door neighbor of the informant and is known to the informant and his family since long and even to the victim. The learned counsel further submits that in cases where a minor alleges rape, it is difficult to contest such allegation, but then merely a minor or on his or on her behalf the informant making allegation will not suffice, there has to be something more to substantiate the allegation at least for the purposes of bail. The learned counsel submits that in the F.I.R., it is alleged that a minor was forcibly raped by two men, hence one can very well imagine the condition of a minor if she is



subjected to forcible rape by two adult persons. The learned counsel submits that the injury report does not even remotely suggest that the minor was subjected to rape as alleged in the F.I.R. It is submitted that the injury report records:- *No pain, no external and internal injury found on vulva and vagina, no foreign body present, no injury found on face or any part of the body. Though, the age assessment of the victim was not done.*

The learned counsel for the petitioner further submits that if the victim would have raped by two men as alleged and that too, forcible, then definitely the medical evidence would have suggested rape. Further, it is submitted that it does not stand to reason that husband would rape and that too, a minor in presence of his wife.

The learned A.P.P. for the State opposes the bail application.

Considering the fact that the petitioner is in custody, charge-sheet has been submitted in the case, he was a person with clean antecedent prior to the present case and taking into consideration the submission made by the learned counsel for the petitioner, the petitioner, above-



named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 7th Additional sessions Judge-cum-Special Judge, POCSO Act, Muzaffarpur in connection with Kanti P. S. Case No.766 of 2020.

The application stands allowed.

(Satyavrat Verma, J)

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